

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

JAMES and CLARA REMBERT,	:	CIVIL ACTION
FAIR HOUSING ACTION CENTER OF	:	
THE TENANTS' ACTION GROUP, INC.	:	
	:	
v.	:	
	:	
SUSAN A. CANALE, <u>et al.</u>	:	95-2682

MEMORANDUM AND ORDER

Fullam, Sr. J. June , 1997

Plaintiffs brought this action for alleged violations of the Fair Housing Act, 42 U.S.C. § 3604, and for civil rights violations, 42 U.S.C. §§ 1981 and 1982. After a six-day trial, the jury rendered a verdict in favor of all of the defendants on the Fair Housing Act claim, but were unable to agree upon a verdict as to the civil rights claim, with respect to two of the defendants, Sue A. Canale Realty Professionals and Sue A. Canale, individually ("the Canale Defendants").

In support of a post-trial motion for judgment as a matter of law as to these unresolved claims, the Canale Defendants' counsel persuasively argue that the Fair Housing Act claims and the civil rights claims stem from the same failed real estate transaction. Hence, they argue, the jury's verdict on the Fair Housing Act issue entitles them to judgment as a matter of law on the unresolved civil rights issues, on the basis of collateral estoppel. In my view, the premise is sound, but the conclusion is not: Since both claims stem from the same transaction and are factually indistinguishable, there is a fatal inconsistency in the

jury's work-product, and the case must be retried in its entirety, insofar as the Canale defendants are concerned.

Strangely, counsel for plaintiffs has attempted to reconcile the jury's verdict on the Fair Housing Act claim with its inability to agree on a verdict as to the civil rights claim, but the suggested distinction is untenable. It is true that the Fair Housing Act prohibits discrimination in connection with the sale of a house, whereas it is theoretically possible for racial discrimination to occur either with respect to a house, or with respect to the underlying land. But the evidence in this case made no distinction whatever between the house which plaintiffs sought to purchase, and the lot on which it was located. On the basis of the evidence presented at trial in this case, the jury could not rationally have reached unanimous agreement as to the Fair Housing Act claim, and yet remained unable to agree with respect to the civil rights claim. A new trial must be granted.

Plaintiffs' Motion for Judgment as a Matter of Law lacks merit; even the allegedly uncontradicted evidence need not have been accepted, and, more important, could rationally support different inferences. An Order follows.

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ORDER

AND NOW this            day of June, 1997, upon consideration of the post-trial motions filed by the parties, and responses to these motions, IT IS ORDERED:

1. As to the defendants Sue A. Canale and Sue Canale Real Estate, the jury's verdict is VACATED, and a new trial granted as to all issues.
2. Judgment is entered in favor of all other defendants, and against the plaintiffs.
3. Except as hereinabove set forth, all other pending motions are DENIED as MOOT.

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John P. Fullam, Sr. J.